

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 1-134 are in this case. Claims 1-23 49-91 and 114-134 were withdrawn under a restriction requirement as drawn to a non-elected invention. Claims 36, 44-47 and 92-113 have been rejected. Claims 24-35, 37-43 and 48 have been objected to. Claims 44, 109 have now been canceled. Claims 24, 36, 92 and 101 have now been amended.

Specification

The Examiner states that there is no description in the Brief Description of the Drawings for various acronyms presented in Figures 1-4 (e.g. LS, CRS, GFP, FPS, P, T7 etc.). Applicant fails to understand this objection since acronyms such as LS and CRS do not appear in the description of Figures 1-4, nor do they appear in any of the Figures described in this section. Applicant requests further clarification from the Examiner regarding this matter.

Abstract

The Examiner states that the Abstract cannot exceed 150 words in length. Applicant has now amended the abstract to not exceed 150 words in length and to more accurately reflect the elected invention.

Claim Objections

The Examiner has objected to claim 24 due to several informalities. The Examiner states that the phrase "...when compared to a predetermined level of said expression of said reporter molecule" is somewhat confusing since there is no clear antecedent basis for the words "said expression of said reporter molecule". Following the suggestion made by the Examiner, Applicant has amended claim 24 to recite "...when compared to a predetermined level of expression of said reporter molecule".

The Examiner has also objected to claims 44 and 109 under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of

a previous claim. Claims 44 and 109 have now been cancelled rendering moot the Examiner's objections with respect to these claims.

35 U.S.C. § 112, First Paragraph, Rejections

The Examiner has rejected claim 47 and 112 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner states that the response previously filed does not point to the specification for support of an amendment which recites "at least a 5 amino acid portion of a characterized polypeptide" nor can the Examiner find such literal support.

The text from line 18, page 14 to line 2, page 15 of the instant application which states the following:

"...each of the plurality of polypeptides is of a specific size selected from a size range of approximately 5 amino acids to approximately 1000 amino acids" clearly provides written description support for "at least a 5 amino acid portion of a characterized polypeptide".

35 U.S.C. § 112, Second Paragraph, Rejections

The Examiner has rejected claims 36, 44-46 and 92-113 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner's rejections are respectfully traversed. Claims 44 and 109 have now been canceled, rendering moot the Examiner's rejection. Claims 36, 92 and 101 have now been amended.

The Examiner states that claims 36 and 101 are vague and indefinite in that each recites a limitation whereby the cis regulatory sequence element that mediates expression of the first coding region on the first expression construct (i.e. encoding the trans activator) is a translational regulatory sequence.

Claims 36 and 101 have now been amended to delete the phrase "a translational regulatory sequence".

The Examiner also states that claims 44 and 109 are vague and indefinite in the metes and bounds of the phrase "... a polynucleotide represented in the genome and a polynucleotide sequence not represented in a genome ..."

Claims 44 and 109 have now been cancelled thereby rendering moot any rejections with respect to these claims.

The Examiner further states that claim 92 is vague and indefinite in that there is no clear and positive antecedent basis for the newly added words "said cells in which said level of expression of said reporter molecule is within said predetermined range."

Claim 92 has been amended and the phrase recited above replaced with "exhibiting said level of expression within said predetermined range".

In view of the above presented claim amendments and arguments, Applicant believes to have overcome the 35 U.S.C. § 112, second paragraph rejections.

In view of the above amendments and remarks it is respectfully submitted that claims 24-43, 45-48, 92-108, 110-113 are now in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,



Sol Sheinbein

Registration No. 25,457

Date: May 26, 2005

Encl.:

One month extension fee